

Sacramento  
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Mr. C. D. Porter (NJC)

E. H. Stetson

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By memo dated August 28, you have requested my interpretation of the taxability of portable lifeboat radio equipment under the watercraft exemption, Ruling 51.5. This ruling contains the provision, "Included in the tangible personal property subject to the exemption are the following: ...All property affixed or attached to the structure of the watercraft used while thus affixed or attached for navigation or operation, such as: radio transmitters, receivers and other radio equipment, radar equipment, inter-communication systems, winches, anchors, lifeboats, engines, generators, switchgear, compasses, indicators, levers, control and signal systems, lamps, chains and cables".

In the illustrative list of property subject to the exemption issued with our approval by the

there is included the following:

"Radios (ships)". Also included are "Lifeboats and equipment". Excluded from exempt status include the following "Navigation and communication equipment of a portable nature such as walkie-talkies...". Also excluded are "Life saving equipment of a portable nature such as ring buoys, life jackets, distress signals, flares, rockets other than that as is used as part of lifeboat or lift raft."

It therefore, seems to me that if an item is securely affixed or attached to a life boat while in use that it qualifies as an exempt article even though in a general way it may be described as portable because it is kept in some suitable storage area on the ship to be removed therefrom in case of emergency and is easily movable for that purpose.

It is pointed out in the letter of August 5 from taxpayer that the radios in question differ from the walkie-talkie type in that they must be affixed in order to be cranked which is the way the power is generated and also the antenna

must be affixed to the lifeboat in order to be operated. The audit working papers, Schedule 11.1(b) state, "When the radio is placed in the life boat, "When the radio is placed in the lifeboat, two straps hold the case and radio on a board crossing the lifeboat".

In the folder furnished by taxpayer entitled "Portable Lifeboat Radio Equipment Mackay Type 401-A", there is a complete description of the radios and their operation. Thus on page 13, it is stated, "Preparation of the equipment for operation consists merely of securing it to any convenient supporting surface, grounding the metal case, and connecting the antenna terminal to an antenna." On page 15, it is stated, "If the canvas straps provided with the unit can be passed beneath the seat, strap the radio set to the seat. If the straps cannot be used, cut off a portion of the lowering line, secure it to the metal "D" rings, which are attached to the case, and lash the equipment to the lifeboat thwarts". There are then instructions for rigging the antenna from the lifeboat sailing mast. Figure 3 indicates the method of fixing the radios in place.

It seems to me that this is different from the usual portable type of equipment which is readily moved from one place to another and is normally used in different locations without necessarily being securely fastened down at the point of use. It should also be noted that the list prepared by the <sup>under</sup> "Navigation and Communication Equipment" includes within the exempt category such things as compasses, barometers, indicators, recording instruments, and radar" which are affixed or attached in a substantial manner when in use. The fact that the radios in question were affixed to the lifeboats is immaterial as the lifeboats themselves are watercraft or are at least a part of the ship of which they are considered to be a part.

It is, therefore, my opinion that the sale of these radios should be considered exempt insofar as their status of being component parts of watercraft is concerned.

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